

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Revision of the Commission's Rules To Ensure)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
To: Chief, Wireless Telecommunications Bureau		

**NORTH DAKOTA PCS ALLIANCE PETITION FOR WAIVER
OF E911 PHASE II LOCATION TECHNOLOGY IMPLEMENTATION RULES**

By its attorneys and pursuant to Section 1.3 of the Commission's Rules, the North Dakota PCS Alliance ("Alliance"), hereby requests a temporary waiver of Section 20.18(g) of the Commission's Rules to allow it to delay the phase-in of its deployment of a handset-based ALI technology in meeting the Enhanced 911 ("E911") Phase II implementation rules.

The Alliance is a joint venture and small business consortium between and among Northwest Communications Cooperative, Inc. ("NCC"), a rural telephone cooperative that provides local exchange telephone services in and around Ray, North Dakota, and Reservation Telephone Cooperative ("RTC"), a rural telephone cooperative that provides local exchange telephone services in and around Parshall, North Dakota. The Alliance currently holds a 10 MHz F-Block broadband PCS license in the Williston, North Dakota Basic Trading Area ("Williston BTA") under Call Sign KNLH236. Our network utilizes CDMA base station equipment and we have entered into an agreement to receive switching services from North Dakota Network Company ("NDNC").¹

¹ This agreement is part of a larger transaction which contemplates the eventual assignment of our F-Block license to NDNC, subject to prior FCC approval. See FCC Form 603 application filed June 18, 2002, under FCC File No. 0000916174.

The Alliance is committed to complying with Commission requirements regarding Phase II Automatic Location Identification ("ALI"). However, because the Alliance receives switching services from NDNC, its ability to provide Phase II ALI (a switch-based service) depends upon the capabilities of NDNC's Nortel DMS-100 Dual Load switch. In this regard, the Commission is aware from NDNC's previous filings in this docket, that Nortel Network ("Nortel") has recently discontinued support for its Dual Load switch, leaving NDNC in the position of having to purchase a second switch and split the wireless traffic (including traffic from the Alliance network) from the existing switch in order to provide Phase II ALI service. This process is extraordinarily complex and it is our understanding NDNC will also need to install and successfully test at least two software revisions before it will have the capability to provide the Alliance with Phase II ALI. Therefore, because the broadband PCS networks of the Alliance and NDNC are currently operating from the same switch and because these systems will be integrated following the grant of FCC approval and consummation of the proposed assignment transaction, the Alliance respectfully requests a similar waiver of Rule Section 20.18 as sought by NDNC.² The proposed handset-based ALI implementation benchmarks sought by the Alliance (and NDNC) are as follows:

- July 1, 2003 – Begin selling and activating location capable handsets;
- By September 30, 2003 – Ensure that at least 25 percent of all new handsets activated are location-capable;
- By March 30, 2004 – Ensure that at least 50 percent of all new handsets activated are location capable;
- By September 30, 2004 – Ensure that all new handsets activated are location

² See NDNC Petition for Waiver, CC Docket No. 94-102, *filed* September 19, 2001; *as modified by* NDNC Supplement to Petition for Waiver, CC Docket No. 94-102 *filed* June 28, 2002. Concurrent with the submission of the instant Petition for Waiver, the Alliance is submitting an E911 Phase II ALI technology selection report in which the Alliance commits to implementing a handset-based ALI technology to implement E911 Phase II capability.

capable;

- By September 30, 2007 – Achieve 95 percent penetration of location-capable handsets among Alliance subscribers;
- By October 1, 2003 or within six months of receiving a PSAP request, whichever is later – Begin delivering E911 Phase II Service to the PSAP.

For further details regarding NDNC's switch upgrade (which appears to be imminent) we direct the Commission's attention to NDNC's June 28, 2002 submission in CC Docket 94-102. The Alliance notes that it only recently initiated service on its Williston BTA F-Block system and it has not received any request for Phase I or Phase II service from the PSAP in its operating territory.

I. THE ALLIANCE HAS MET THE WAIVER STANDARDS

The Alliance has met the Commission's standards for obtaining the requested waiver of Rule Section 20.18(g). While Section 20.18 of the Commission's Rules imposes E911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, namely that achieving full compliance requires the cooperative efforts of carriers, equipment manufacturers and suppliers and government officials responsible for public safety activities. Even if the necessary equipment, software and handsets were currently available for the Alliance to provide E911 Phase II capability, its immediate purchase and/or installation would be meaningless without the availability of necessary equipment and the readiness of the public safety answering points in its area.

As the Commission is well aware, ALI technology has only recently advanced to the point where Phase II compliance can become a reality. However, once compliant equipment becomes generally available in the marketplace, it will likely be several more

months before NDNC will be able to order and obtain delivery of this equipment and to provide E911 Phase II capability to the Alliance. As small market carriers, neither the Alliance nor NDNC has the buying power to influence vendor delivery schedules, let alone the clout to influence equipment design and development. If the past is prologue, the Alliance will need to wait until the initial handset requirements of the national carriers are satisfied before it will have access to a supply of Phase II compliant handsets. Moreover, the Alliance could not have anticipated the problems and the delays with NDNC having to acquire, install and test a new switch, or Nortel's decision not to provide ongoing support for a switch that is barely three years old due to economic issues that are apparently unrelated to E911 Phase II.

The deadline extensions requested by the Alliance are in the public interest. They will afford our switching provider the additional time it needs to upgrade and test their equipment, once the equipment is available, in an orderly and successful manner. They will not adversely affect the PSAPs in the area or the public served since none of the PSAPs in the area served by the Alliance will be ready for Phase II service for the foreseeable future. As noted above, the PSAP in Williams County, North Dakota has not requested Phase I or Phase II service from the Alliance and is unlikely to do so in the next six months.

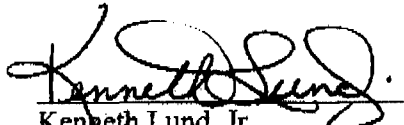
Both the Alliance and NDNC have been diligent in pursuing implementation of Phase II ALI but have been unable to do so for reasons that are beyond their control. The instant waiver request is specific and focused. It details the unavoidable delays the Alliance's switch provider has encountered through no fault of its own. It sets out a clear path to compliance once the necessary equipment becomes available. Moreover, it demonstrates that the public interest will not be harmed by the proposed brief extension, since the PSAP will not be able to utilize the E911 Phase II location information even if

Alliance was somehow able to achieve compliance by the deadline set forth in the Commission's Rules. Moreover, granting the requested waiver would recognize the unique obstacles faced by rural telephone companies participating in the deployment of advanced technologies in small communities and surrounding rural areas. The Alliance qualifies under the Commission's Rules as both a rural telephone company and a small business consortium. It faces a limited budget and higher buildout costs due to low population density in its license area, as well as an inability to place high volume handset orders that would be given priority by the equipment vendors. The same economic considerations no doubt are slowing Phase II deployment for PSAPs in the State of North Dakota. Therefore, a waiver grant would be consistent with Section 309(j) of the Communications Act of 1934, as amended, by helping to facilitate the participation of a rural telephone company (and a small business) in the provision of advanced telecommunications services, and by helping to bring such services to all Americans, including those in North Dakota.

II. CONCLUSION

In view of the foregoing, the waiver herein requested is in the public interest and should be granted.

Respectfully submitted,
North Dakota PCS Alliance

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